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No. 71-959

In the Supreme Court of the United States

OCTOBER TERM, 1971

CALVIN THOMAS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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After a jury trial in the United States District Court for the Middle District of Tennessee, petitioner was convicted of having aided and abetted the jail break of a federal prisoner, in violation of 18 U.S.C. 752. He was sentenced to four years' imprisonment. The court of appeals affirmed (Pet. App. A).

Petitioner's sole contention is that this Court's decision in *Caminetti* v. *United States*, 242 U.S. 470, 495, holding the uncorroborated testimony of an accomplice sufficient to sustain convictions should be overruled. We rely upon the opinion below which demonstrates that the question is not presented since "there was more than ample corroboration of the testimony

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of the alleged accomplice" (Pet. App. A 2), and that the evidence was clearly sufficient to support the verdict.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

MARCH 1972.

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